

THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No. 18659/2020
Amarsingh S/o. Kesarsingh Chouhan V/s. State of M.P.
-: 1 :-

Indore, dated : 09.07.2020

Applicants by Shri Manoj Saxena, Advocate.

Respondent/State by Ms. Archana Maheshwari, Panel Advocate.

Objector by Shri Neeraj Gaur, Advocate.

ORDER

This is first application filed under Section 438 Cr.P.C. by applicant – **Amarsingh S/o. Kesarsingh Chouhan**, expecting his arrest by Police in connection with **Crime No.1201/2019** registered at **Police Station Vijay Nagar, Indore**, concerning offence **u/s. 420, 467, 468, 294, 506/34** of the IPC.

2. Heard the learned counsel for the parties and perused the case diary through Video Conferencing.

3. As per prosecution story complainant Vinay Singh Kushwah lodged an FIR in the Police Station, Vijay Nagar on 16.12.2019 against the applicant and his wife Kamlesh Chouhan Chouhan and one Bhavanisingh disclosing that he is residing in a house situated at C-10/1, Swarnebag Colony, Indore. Kamlesh and applicant are his neighbours who gave an offer to him for sale of a plot in Swarnebag colony. He was shown the plot and he approved to purchase it. Then they got introduced Bhavanisingh as the owner of the said plot. The complainant entered into an agreement to sell with Bhawanisingh on 29.12.2015 and agreed to purchase the said plot for a sum of Rs.4,21,000/-. The agreement was executed and notarized by the Notary. The possession was given to him and thereafter he has constructed a house on it and started living in it. One day Rajkumar and his father-in-law P.D Agrawal came to his

THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No. 18659/2020
Amarsingh S/o. Kesarsingh Chouhan V/s. State of M.P.

-: 2 :-

house and told him that this plot belongs to them. Thereafter he came to know that the present applicant along with his wife and Bhavanisingh had cheated him. On the basis of his complaint, the Police has registered an FIR against 3 of them.

4. Learned counsel for the applicant submits that Bhavanisingh has been granted bail under section 439 Cr.P.C by the Sessions Court vide order dated 03.01.2020. The prosecution has not recorded the statement of Rajkumar Agrawal and P.D. Agrawal. The original document of ownership of the said plot has not been collected so far. The applicant has been falsely implicated in the matter. He further submits that before entering into agreement to sell with Bhavani Singh it was the duty of the complainant to verify the title document. He is also equally responsible for purchase of plot by way of unregistered agreement which is prohibited under the provision of Transfer of Property Act. He has evaded the stamp duty payable on the same and now he is alleging forgery and cheating against the applicant and others. If the applicant is arrested he will loose his image in the society and there is no criminal antecedents against her. He further submits that as many as six cases have been registered against the applicant and out of six, in five cases, he has been granted bail. The police has not shown any formal arrest of the applicant, therefore, he has filed the present applicant u/s. 438 of the Cr.P.C. The co-accused – Kamlesh Chouhan has also been granted anticipatory bail by this Court vide order dated 17.2.2020 passed in M.Cr.C. No.3646/2020. No custodial interrogation is required and the applicant is ready to cooperate in the investigation.

THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No. 18659/2020
Amarsingh S/o. Kesarsingh Chouhan V/s. State of M.P.
-: 3 :-

5. On the other hand, learned Panel Advocate as well as learned counsel appearing for the objector oppose the bail application by submitting that the applicant along with his wife has projected Bhavanisingh as the owner of the plot and got executed an agreement to sell with the present complainant. The investigation is pending and at this stage the arrest of the present applicant is necessary, hence prays for rejection of the application.

6. As per the allegations in the complaint the applicant along with his wife Kamlesh Chouhan has got executed the agreement to sell between complainant and Bhavani Singh. As per the agreement to sell procured by the Police an amount of Rs.4,21,000/- was said to have been paid to Bhavani Singh in which present applicant has signed as a witness. In the agreement the name of the present applicant is not mentioned. Kamlesh Chouhan has been granted bail by this Court and Bhavani Singh has been granted bail by the Sessions Court. Except the bald allegations, as on today, there is no material against the applicant. Even otherwise the alleged incident is 4 years old and the complainant is also enjoying the property without purchase by registered sale deed. He has also avoided registration of sale deed as well as payment of stamp duty, therefore, the copy of the entire case diary be also brought to the knowledge of the Registrar of Stamps for initiating action for impounding.

7. In view of the facts and circumstances of the case, without commenting on the merit of the case, the application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid crime number, he shall be released

THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No. 18659/2020
Amarsingh S/o. Kesarsingh Chouhan V/s. State of M.P.
-: 4 :-

on bail upon his furnishing personal bond in the sum of **Rs.1,00,000/- (One Lakh)** with one surety in the like amount to the satisfaction of the arresting officer. This order shall be governed by the conditions No.1 to 3 of sub section (2) of section 438 Cr.P.C. The applicant shall also co-operate with the investigation.

- 8.** With the aforesaid, this M.Cr.C. stands disposed of.
C.C. as per rules.

(VIVEK RUSIA)
JUDGE

k/-